BOMBAY ACT No. XXV OF 1949.[1]

[THE BOMBAY PROHIBITION ACT, 1949.]

[*20th May 1949*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 28 of 1950.
,, ,, ,, 26 of 1952.
,, ,, ,, 18 of 1953.
,, ,, ,, 67 of 1953.
,, ,, ,, 21 of 1954.
,, ,, ,, 36 of 1954.
,, ,, ,, 64 of 1954.
,, ,, ,, 20 of 1955.

An Act to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition and also the Abkari law in the Province of Bombay.

WHEREAS it is expedient to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition ; and whereas it is also necessary to amend and consolidate the Abkari law in the Province of Bombay for the said purpose and to provide for certain other purposes hereinafter appearing ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be cited as the Bombay Prohibition Act, 1949.
(*2*) It extends to the whole of the [2][State] of Bombay.
(*3*) It shall come into force on such date as the [3][State] Government may, by notification in the *Official Gazette*, specify.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—
(*1*) " authorization " means an authorization granted under section 45 for the use of liquor for sacramental purposes ;
(*2*) " to bottle ", with its various grammatical variations, means to transfer any article from a cask or other vessel to a bottle, jar, flask, pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not ; bottling includes re-bottling ;
(*3*) " coasting steamer licence " means a licence granted under section 37 ;
(*4*) " Collector " means a Collector of land revenue or any person appointed to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act ;
[4][(*5*) " Director " means an officer appointed as the Director of Excise and Prohibition under section 3 ;]
(*6*) " committee " means any of the committees appointed by the [3][State] Government under section 7 ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 655.
[2] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word " Provincial ", *ibid.*
[4] Clause (5) was substituted for the original by Bom. 28 of 1950, Sch.

(*7*) "common drinking house" means a place where the drinking of liquor or consumption of any intoxicating drug is allowed for the profit or gain of the person owning, occupying, using, keeping or having the care or management or control of such place whether by way of charge for the use of the place or for drinking facilities provided, or otherwise howsoever and includes the premises of a club or any other place which is habitually used for the purpose of drinking liquor or consuming any intoxicating drug by more than one person without a licence granted under this Act ;

(*8*) "country liquor" includes all liquor produced or manufactured in India ;

(*9*) "cultivation" includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed ;

(*10*) "denatured" means subjected to a process prescribed for the purpose of rendering unfit for human consumption ;

[1][(*10a*) "denatured spirituous preparation" means any preparation made with denatured spirit or alcohol and includes lacquers, French polish, and varnish prepared out of such spirit or alcohol ;]

(*11*) "dining car licence" means a licence granted under section 37 ;

(*12*) "to drink" with its grammatical variations, means to drink liquor or to consume any intoxicating drug ;

(*13*) "excisable article" means—

(*a*) any alcoholic liquor for human consumption,

(*b*) an intoxicating drug,

(*c*) opium,

(*d*) any medicinal or toilet preparation containing alcohol,

(*e*) other narcotic drugs, narcotics and non-narcotic drugs which the [2][State] Government may, by notification in the *Official Gazette*, declare to be an excisable article ;

(*14*) "excise duty" and "countervailing duty" means such excise duty or countervailing duty, as the case may be, as is mentioned in [3][entry 51 in list II in the Seventh Schedule to the Constitution] ;

(*15*) "excise revenue" means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law) or confiscation or forfeiture imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to intoxicants ;

(*16*) "export" (except in section 147) means to take out of the [4][State] otherwise than across a customs frontier [5]* * * * ;

(*17*) "foreign liquor" includes all liquor brought into India by sea, air or land :

Provided that the [2][State] Government may, by notification in the *Official Gazette*, declare that any specified description of country liquor shall, for the purposes of this Act, be deemed to be foreign liquor ;

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[1] Clause (*10a*) was inserted by Bom. 36 of 1954, s. 2.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This portion was substituted for the portion "Item 40 in List II in the Seventh Schedule to the Government of India Act, 1935", *ibid.*

[4] This word was substituted for the word "Province", *ibid.*

[5] The words "as defined by the Dominion Government" were deleted by Bom. 26 of 1952, s. 2(*1*).

(*24*) "liquor" includes—

(*a*) spirits of wine, [1][denatured spirits] wine, beer, toddy and all liquids consisting of or containing alcohol ; and

(*b*) any other intoxicating substance which the [2][State] Government may, by notification in the *Official Gazette*, declare to be liquor for the purposes of this Act ;

(*25*) "manufacture" includes—

(*a*) every process whether natural or artificial by which any liquor or intoxicating drug is produced, prepared or blended and also redistillation and every process for the rectification of liquor, but does not include flavouring, blending or colouring of liquor or intoxicating drug lawfully possessed for private consumption ; and

(*b*) every process of producing and drawing of toddy from trees ;

(*26*) "Medical Board" means a board constituted under section 8 ;

(*27*) "mhowra flower" does not include the berry or seed of the mhowra tree ;

(*28*) "molasses" means the heavy, dark coloured residual syrup drained away in the final stage of the manufacture of gur or sugar containing, in solution or suspension, sugars which can be fermented, and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup ; but does not include any article which the [2][State] Government may, by notification in the *Official Gazette*, declare not to be molasses, for the purposes of this Act ;

(*29*) "Officer in charge of a Police Station" includes—

Bom. IV of 1902. V of 1898.

(*a*) in the Greater Bombay, the officer in charge of a police section as provided under the provisions of the City of Bombay Police Act, 1902, and

(*b*) elsewhere the officer in charge of a police station as defined in the Code of Criminal Procedure, 1898 ;

(*30*) "opium" means—

(*a*) the capsules of the poppy (Papaver Somniforum L) ;

(*b*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport ; and

(*c*) any mixture with or without neutral materials of any of the above forms of opium ;

but does not include any preparations containing not more than 0·2 per cent. of morphine, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930 ;

II of 1930.

(*31*) "passenger ship licence" means a licence granted under section 38 ;

(*32*) "permit" means a permit granted under [3][the provisions of this Act] and the expression "permit holder" shall be construed accordingly ;

Bom. IV of 1902. V of 1898.

(*33*) "police station" means in the Greater Bombay a police section as provided under the provisions of the City of Bombay Police Act, 1902, and elsewhere any place declared to be a police station for the purposes of the Code of Criminal Procedure, 1898 ;

(*34*) "prescribed" means prescribed by the rules, orders or regulations under this Act ;

(*35*) "Prohibition officer" includes the [4][Director], Collector or any officer or person appointed to exercise any of the powers or to perform any of the duties and functions under the provisions of this Act and also includes any member of a committee or the Medical Board ;

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[1] These words were substituted for the words "methylated spirits" by Bom. 26 of 1952, s. 2(*2*).

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words and figures "section 40, 41, 46 or 47" by Bom. 26 of 1952 s. 2(*4*).

[4] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

(*36*) "[1][State]" means the [1][State] of Bombay including the space within the limits of its territorial waters ;

(*37*) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith ;

(*38*) "Registered Medical Officer" means—

(*a*) a medical practitioner registered under the Bombay Medical Act, 1912, or Bom. VI of 1912.

(*b*) a medical practitioner registered or entered on the list under the Bombay Medical Practitioners' Act, 1938 ; Bom. XXVI of 1938.

(*39*) "regulations" means regulations made under this Act ;

(*40*) "rules" means rules made under this Act ;

(*41*) "sell" with its grammatical variations includes—

(*a*) any transfer whether such transfer is for any consideration or not,

(*b*) any supply or distribution for mutual accommodation, and

(*c*) any supply by a club to its members on payment of price or of any fees or subscription, but does not include selling of opium for export across the customs frontier [2] * * * * ;

The word "buy" with its grammatical variations shall be construed accordingly ;

(*42*) "special import licence" means a licence granted under section 36 ;

(*43*) "spirit" means any liquor containing alcohol and obtained by distillation (whether it is denatured or not) ;

(*44*) "sweet toddy or nira or neera" means unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree into receptacles treated in the prescribed manner so as to prevent fermentation ;

(*45*) "territorial waters" with reference to the [1][State] means any part of the open sea within one marine league of the coast measured from the low water mark ;

(*46*) "toddy" means fermented or unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree and includes sweet toddy or nira or neera ;

(*47*) "to tap" means to prepare any part of a tree, or to use any means, for the purpose of causing juice to exude from the tree ;

[3][(*47-A*) 'tourist' means a person who is not a citizen of India and who is either born or brought up or domiciled in any country outside India, but who visits India on a tour for a temporary period ;

(*47-B*) 'tourist's permit' means a permit granted under section 46-A ;]

(*48*) "trade and import licence" means a licence granted under section 33 ;

(*49*) "transport" means to move from one place to another within the [1][State] ;

(*50*) "vendor's licence" means a licence granted under section 34 ;

(*51*) "visitor's permit" means a permit granted under section 46.

CHAPTER II.

ESTABLISHMENT.

[5][Director of Excise and Prohibition.]

3. The [4][State] Government may, by notification in the *Official Gazette*, appoint an officer to be called the [5][Director of Excise and Prohibition], who, subject to the control of the [4][State] Government and subject to such general or special orders as the [4][State] Government may from time to time make, shall exercise such powers and shall perform such duties and such functions as are conferred upon, by or under the provisions of this Act and shall superintend the administration and carry out generally the provisions of this Act :

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[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[2] The words "as deemed by the Dominion Government" were deleted by Bom. 26 of 1952, s. 2(*1*).

[3] These clauses were inserted by Bom. 20 of 1955, s. 2.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] These words were substituted for the words "Prohibition Commissioner" by Bom. 28 of 1950, Schedule.

[1][43. (*1*) No holder of a permit granted under any of the provisions of this Act other than section 40B shall drink in a public place or in the rooms of a hotel or institution to which the public may have access. Regulation of use or consumption of foreign liquor by certain permit holders.

(*2*) No holder of a permit granted under section 40A shall allow the use or consumption of any part of the quantity held by him to any other person.

(*3*) No holder of a permit granted under section 40, 41, 46 [2][, 46-A] or 47 shall allow the use or consumption of any part of the quantity held by him under the permit to any other person who is not the holder of any such permit.]

44. (*1*) The [3][State] Government may, by rules or an order in writing, [4][grant or authorize an officer to grant] licences to a club approved by the [3][State] Government in this behalf to sell foreign liquor. Licence clubs.

(*2*) Such licences shall be granted on the following conditions :—

(*a*) that the number of the resident members of the club does not exceed the maximum number of resident membership of such club during the three years immediately before the commencement of this Act :

Provided that the [5][Director] in Greater Bombay and the Collector elsewhere may, subject to the general or special orders of the [3][State] Government, permit such maximum number of resident members to be exceeded in the case of any particular club ;

(*b*) that no liquor shall be served to the holder of any permit in any room of the club to which the public have access at the time when any person who does not hold such permit is present ;

(*c*) that the club when authorized by any member who is the holder of a permit may stock the permitted quantity of liquor on account of such member ; and

(*d*) that liquor stocked on behalf of a member who is the holder of a permit may be served to any person who is the holder of a permit.

Explanation.—For the purposes of this section a resident member of a club shall mean a member who ordinarily resides in the case of a club situated in Greater Bombay within the limits of the said area and elsewhere within the limits of a local authority in which the club is situated.

45. (*1*) The [3][State] Government may, by rules or an order in writing, authorize an officer to grant any authorization to any person for the use of liquor for sacramental purposes : Authorization for sacramental purposes.

Provided that the officer so authorized is satisfied that the use of such liquor is required in accordance with the religious tenets of the community to which such person belongs.

(*2*) An authorization under this section shall be granted on the recommendation of the person who consistently with the religious tenets of the community to which the persons applying for the authorization belongs exercises control over sacramental matters relating to such community and has been approved by the [3][State] Government in that behalf.

(*3*) If in any community there is no person who exercises control over sacramental matters relating to such community and if in the opinion of the [3][State] Government it is so desirable, the authorization under this section may be granted on the recommendation of such member of the community as may be approved by the [3][State] Government in this behalf.

(*4*) If any dispute arises whether the use of liquor is required by any person for sacramental purpose, the person requiring such use may apply to the [5][Director].

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[1] Section 43 was substituted for the original by Bom. 26 of 1952, s. 20.
[2] These figures and letter were inserted by Bom. 20 of 1955, s. 3.
[3] This was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words "authorize or grant" by Bom 26 of 1952, s. 21.
[5] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

The [1][Director] after holding a summary inquiry in the prescribed manner shall decide whether or not the liquor is required by the person for sacramental purposes.

(*5*) The decision of the [1][Director] under sub-section (*4*) shall be final.

Visitors' permits.

46. (*1*) The [2][State] Government may, by rules or an order in writing authorize an officer to grant visitors' permits to consume, use and buy foreign liquor to persons who visit the [3][State] for a period not more than a week.

(*2*) Such permits shall not be granted for a period exceeding one week, provided that the officer granting the permit may extend the period of such permits for the total period not exceeding one month.

(*3*) Such permit shall be available at such places as may be notified by the [1][Director] in this behalf.

Tourists' permits.

[4][**46-A.** (*1*) The State Government may, by rules or an order in writing authorize an officer to grant tourists' permits to consume, use and buy foreign liquor to a person who is a tourist.

(*2*) A tourist's permit may be granted for the period of the tourist's intended stay in the State, but shall in no case be granted for a period exceeding one month.

(*3*) Such permits shall be available at such places as may be notified by the Director in this behalf.]

Interim permits.

47. (*1*) Notwithstanding anything contained in sections [5][40, 40A and 41], the [2][State] Government may, by rules or an order in writing, [6][authorize an officer to] grant interim permits to persons applying for permits under any of the said provisions.

(*2*) Such interim permits shall not be granted for any period exceeding two months.

[9][Licence for consumption or use of intoxicating drugs.]

48. (*1*) The [2][State] Government may by rules or an order in writing authorize an officer to grant licences for the [7][consumption or use] of [8][intoxicating drugs] in such quantities as may be prescribed.

(*2*) Such licences shall be granted on the certificate of the Medical Board.

Power to make rules or pass orders for possession, etc., of opium.

49. The [2][State] Government may from time to time make rules or pass orders to permit absolutely or subject to any conditions or the payment of duty and to regulate within the whole of the [3][State] or any local area all or any of the following matters :—

(*a*) the possession of opium,

(*b*) the use or consumption of opium,

(*c*) the transport of opium,

(*d*) the import or export of opium,

(*e*) the sale or buying of opium,

(*f*) the safe custody of opium warehoused, the levying of fees for warehousing opium and the removal of warehoused opium for sale.

Warehousing of opium.

50. (*1*) The [2][State] Government or any officer authorized in this behalf may declare any place to be a warehouse for opium intended to be sold or exported therefrom. So long as the declaration remains in force, the owner of such article shall be bound to deposit it in that warehouse.

(*2*) No opium shall be removed from any warehouse declared under sub-section (*1*), except under a pass and unless the duty, if any, imposed under the provisions of this Act has been paid or a bond has been executed for the payment thereof.

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[1] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Province", *ibid.*

[4] Section 46A was inserted by Bom. 20 of 1955, s. 4.

[5] These figures, letter and word were substituted for the figures and word "40 and 41" by Bom. 26 of 1952, s. 22 (*1*).

[6] These words were inserted *ibid*, s. 22 (*2*).

[7] These words were substituted for the word "sale" *ibid.*, s. 23 (*1*).

[8] These words were substituted for the words "hemp drugs", *ibid.*

[9] This marginal note was substituted for the original *ibid.*, s. 23 (*2*).

or authorization, the [1][Director] may also direct that any stock of any intoxicant, hemp or mhowra flowers remaining with the holder of the licence, permit, pass or authorization together with receptacles or packages thereof be forfeited to [2][the State Government].

(*3*) If the articles which are forfeited under sub-section (*2*) are sold, the [1][Director] may, if he thinks fit, order the whole or any portion of the sale proceeds of such articles to be paid to the owner thereof.

[3][CHAPTER IV-A.

CONTROL AND REGULATION OF [4][ARTICLES MENTIONED IN SECTION 24A] TO PREVENT THEIR USE AS INTOXICATING LIQUOR.

[6][Manufacture of articles mentioned in section 24A.]

59A. (*1*) No manufacturer of any of the articles mentioned in section 24A shall sell, use or dispose of any liquor purchased or possessed for the purposes of such manufacture under the provisions of this Act otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any of the articles mentioned in section 24A than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the article :

Provided that in the case of manufacture of any of the articles mentioned in section 24A in which the alcohol is generated by a process of fermentation the amount of such alcohol shall not exceed 12 per cent.

(*2*) No person shall—

(*a*) knowingly sell any [5][article mentioned in section 24A] for being used as an intoxicating drink, or

(*b*) sell any such article under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose.

[7][Analysis of articles mentioned in section 24A.]

59B. [8][(*1*)] Whenever the Director has reason to believe that any of the articles mentioned in section 24A does not correspond with the description and limitations provided in section 59A, he shall cause an analysis of the said articles to be made and if upon such analysis the Director shall find that the said article does not so correspond, he shall give not less than 15 days' notice, in writing to the person who is the manufacturer thereof or is known or believed to have imported such article to show cause why the said article should not be dealt with as an intoxicating liquor, such notice to be served personally or by registered post, as the Director may determine, and shall specify the time when, place where, and the name of the officer before whom such person is required to appear.]

[9][(*2*) Whenever the Director causes an analysis of an article mentioned in section 24-A to be made under sub-section (*1*), he may require the person who is the manufacturer thereof or who is known or believed to have imported such article not to sell, distribute or otherwise deal with such article, or to remove it from any place without the previous permission of the Director, for any period not exceeding three months from the date of such requisition or till the result of the analysis is known and communicated to him, whichever is earlier ; and thereupon such manufacturer or person shall comply with such requisition during the said period.]

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[1] This word was substituted for the word " Commissioner " by Bom. 28 of 1950, Sch.
[2] These words were substituted for the words " His Majesty " by the Adaptation of Laws Order, 1950.
[3] Chapter IV-A was inserted by Bom. 26 of 1952, s. 27.
[4] These words were substituted for the original by Bom. 36 of 1954, s. 7.
[5] These words were substituted for the original *ibid.*, s. 8 (*i*).
[6] This marginal note was substituted for the original, *ibid.*, s. 8 (*ii*).
[7] This marginal note was substituted for the original, *ibid.*, s. 9.
[8] Section 59B was renumbered as sub-section (*1*) of that section by Bom. 20 of 1955, s. 5.
[9] This sub-section was added, *ibid.*

CHAPTER V.

MHOWRA FLOWERS.

Prohibition of export or import of mhowra flowers.

60. (*1*) No person shall export or import mhowra flowers except under a pass granted by the Collector or an officer authorized in this behalf.

Control and regulation of transport, sale, etc. of mhowra flowers.

(*2*) [1][No person or head of household on his behalf or on behalf of the members of his household shall in the aggregate] collect or transport or sell or buy or have in his possession mhowra flowers exceeding the prescribed limit in weight, except under the authority and subject to the conditions of a licence, permit or pass granted [2][by the Collector or an officer authorized] in this behalf:

Provided that no licence, permit or pass shall be necessary for the collection, transport, sale, purchase or possession within such area and during such period (hereinafter called vacation period) as the [3][State] Government may, by notification in the *Official Gazette*, notify, of any quantity of mhowra flowers which shall be the produce of that year [4][and of that area]:

Provided further that unless the [3][State] Government by a notification in the *Official Gazette*, otherwise directs, no licence, permit or pass shall be necessary for the transport by rail of any quantity of mhowra flowers through an area which has no vacation period or the vacation period for which has expired at the time when the transport takes place, provided that—

(*i*) the said flowers are not unloaded in transit, and

(*ii*) there is a vacation period at the place from which and to which the said flowers are transported at the time when the said flowers are despatched or arrive, as the case may be.

[5][*Explanation.*—For the purpose of this sub-section, a household shall mean a group of persons residing and messing jointly as members of one domestic unit.]

CHAPTER VI.

CONTROL AND REGULATION OF MOLASSES.

Control of export, etc., of molasses.

61. (*1*) Except as otherwise provided in sub-sections (*2*) and (*3*) no person shall export, import, transport, sell or have in his possession any quantity of molasses.

(*2*) The [3][State] Government may, by general or special order, authorize any Collector [6][or any other officer] to grant licences for the import, export, sale or possession of molasses.

(*3*) The [3][State] Government may also authorize any Collector or any other officer to grant permits for the transport of molasses.

Provisions of sections 53 to 59 to apply to licences granted under section 61.

62. The provisions of sections 53 to 59 shall, so far as may be applicable, apply to licences or permits granted under section 61.

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[1] These words were substituted for the words "No person shall", by Bom. 26 of 1952, s. 28 (*1*).
[2] These words were inserted *ibid.*, s. 28 (*2*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] These words were added by Bom. 26 of 1952, s. 28 (*3*).
[5] This Explanation was added *ibid.*, s. 28 (*4*).
[6] These words were inserted, *ibid.*, s. 29.

Penalty for manufacturing [7]articles mentioned in section 24A] in contravention of the provisions of section 59A.

[1][67A. (*1*) Whoever in contravention of the provisions of section 59A,—

(*a*) sells, uses or disposes of any liquor otherwise than as an ingredient of any [2][article mentioned in section 24A], or

(*b*) uses more alcohol in the manufacture of such [3][article] which may be used as intoxicating liquor than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of such [3][article], or

(*c*) knowingly sells [4][any such article] for being used as an intoxicating drink, or sells any such article under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose,

shall, on conviction be punished with imprisonment for a term which may extend to one year or with fine or with both.

(*2*) No person who has been convicted for any offence under this section or has paid any sum of money under section 104 for such offence shall be entitled to manufacture, import or to sell any [5][article mentioned in section 24A] for a period of one year from the date of such conviction or payment, and any person who imports, manufactures or sells any [6][such article] in contravention of this sub-section shall be liable to the same punishment as is provided for an offence punishable under section 65.

[10][Penalty for failure to satisfy the Director under sub-section (*1*) or to comply with a requisition under sub-section (*2*) of section 59-B.]

67B. [8][(*1*)] If the manufacturer of any of the articles mentioned in section 24A fails to show to the satisfaction of the Director that the article corresponds to the description and limitations provided in section 59A, his licence for the purchase, use or possession of liquor or alcohol for the manufacture of such article shall be revoked.]

[9][(*2*) Any person who fails to comply with any requisition made by the Director under sub-section (*2*) of section 59-B shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.]

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[1] Sections 67A and 67B were inserted by Bom. 26 of 1952, s. 31.
[2] These words were substituted for the words " medicinal or toilet preparation " by Bom. 36 of 1954, s. 11 (*i*) (*a*).
[3] This word was substituted for the word " preparation " *ibid.*, s. 11 (*i*) (*b*).
[4] These words were substituted for the original *ibid.*, s. 11 (*i*) (*c*).
[5] These words were substituted for the original *ibid.*, s. 11 (2) (*a*).
[6] These words were substituted for the words " such preparation " *ibid.*, s. 11 (*2*) (*b*).
[7] These words were substituted for the words " medicinal or toilet preparations ", *ibid.*, s. 11 (*iii*).
[8] Section 67B was renumbered as sub-section (*1*) of that section by Bom. 20 of 1955, s. 6 (*1*).
[9] This sub-section was added, *ibid.*
[10] This was substituted for the original, *ibid.*, s. 6 (*2*).

(*2*) Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence, permit, pass or authorization be liable to the same punishment.

Penalty for conspiracy.

83. When two or more persons agree—

(*a*) to commit or cause to be committed any offence under this Act, or

(*b*) [1]* * * to commit a breach of a condition of a licence, permit, pass or authorization,

each of such persons shall, on conviction, be punished with imprisonment for a period which may extend to two years or with fine which may extend to one thousand rupees or with both.

Penalty for being found drunk in any drinking house.

84. Whoever is found drunk or drinking in a common drinking house, or is found there present for the purpose of drinking, shall, on conviction, be punished with fine which may extend to five hundred rupees. Any person found in a common drinking house during any drinking therein shall be presumed, until the contrary is proved, to have been there for the purpose of drinking.

Penalty for being drunk and for disorderly behaviour.

85. [2][(*1*)] Whoever in any street or thoroughfare or public place or in any place to which the public have or are permitted to have access—

(*1*) is drunk and incapable of taking care of himself, or

(*2*) behaves in a disorderly manner under the influence of drink [3][or

(*3*) is found drunk but who is not the holder of a permit granted under the provisions of this Act or is not eligible to hold a permit under section 40, 41, [4][; 46 or 46A].

shall, on conviction, be punished,—

(*i*) for an offence under clause (*1*) [5][or clause (*3*)],—

(*a*) for a first offence, with imprisonment for a term which may extend to one month and with fine which may extend to two hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than seven days and fine shall not be less than twenty-five rupees ; and

(*b*) for a subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees ; and

(*ii*) for an offence, under clause (*2*),—

(*a*) for a first offence, with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees : and

(*b*) for a subsequent offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees.

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[1] The words "to defeat or frustrate the provisions of this Act, rule, regulation or order, or" were deleted by Bom. 26 of 1952, s. 37.

[2] Section 85 was renumbered as sub-section (*1*) of the said section, *ibid.*, s. 38.

[3] This portion was inserted, *ibid.*, s. 38(*1*).

[4] These figures, word and letter were substituted for the word and figures "or 46" by Bom. 20 of 1955, s. 7.

[5] These words, brackets and figures were inserted by Bom. 18 of 1953, s. 3 and Second Schedule.

[1][(2) In prosecution for an offence under sub-section (1), it shall be presumed until the contrary is proved that the person accused of the said offence has drunk liquor or consumed any other intoxicant for the purpose of being intoxicated and not for a medicinal purpose.]

Penalty for allowing any premises to be used for purpose of committing an offence under Act.

86. (1) Whoever, being the owner or occupier, or having the use or care or management or control of any place, knowingly permits it to be used for the purpose of the commission by any other person of any offence punishable under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

(2) It shall be presumed until the contrary is proved, that a person accused of an offence under sub-section (1) has committed such offence if the offence committed by that other person is proved to have been committed in the premises in his immediate possession.

Penalty for chemist, druggist or apothecary for allowing his premises to be used for purpose of consumption of liquor.

87. A chemist, druggist, apothecary or keeper of a dispensary who allows any liquor, which has not been *bona fide* medicated for medicinal purposes according to the prescription of a medical practitioner or any intoxicating drug to be consumed on his business premises by any person, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for issuing false prescriptions.

88. If a medical practitioner issues a prescription with the intention that such prescription shall be used by the person to whom it is issued for the purpose of consuming liquor, intoxicating drug or opium in contravention of the provisions of this Act, or rule, regulation or order made thereunder or any licence, permit, pass or authorization granted under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for maliciously giving false information.

89. Any person who maliciously and falsely gives information to any person exercising powers under this Act leading to a search, seizure, detention or arrest shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for offences not otherwise provided for.

90. Whoever is guilty of any wilful act or intentional omission in contravention of the provisions of this Act, or any rule, regulation, or order thereunder or of any licence, permit, pass or authorization granted under this Act, and if such act or omission is not otherwise made an offence under this Act shall, on conviction, be punished with the imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Demand for security for abstaining from commission of certain offences.

91. (1) Whenever any person is convicted of an offence punishable under this Act, the court convicting such person, may, at the time of passing the sentence on such person, order him to execute a bond for a sum proportionate to his means with or without sureties to abstain from the commission of offences punishable under the provisions of this Act during such period not exceeding three years as it may direct.

[1] Sub-section (2) was added by Bom. 26 of 1952, s. 38 (2).

Provided that no such order shall be made before the expiry of one month from the date of seizure, or without hearing any person who can claim any right thereto and the evidence, if any, which he produces in support of his claim.

Power of Collector etc. to order sale or destruction of articles liable to confiscation.

101. If the thing in question is liable to speedy and natural decay, or if the [1][Director], Collector, [2][Court] or the officer authorized by the [3][State] Government in this behalf is of opinion that the sale would be for the benefit of the owner, the [1][Director], Collector, [2][Court] or the officer may at any time direct it to be sold and the provisions of section 99 or 100 shall apply so far as may be to the net proceeds of the sale:

Provided that in the case of anything liable to speedy and natural decay the officer concerned may order it to be destroyed if in his opinion such order is expedient in the circumstances of the case.

Forfeiture of any publication containing advertisement or matter [7][soliciting] use of intoxicants.

102. (*1*) Where any newspaper, news-sheet, book, leaflet, booklet or other publication wherever printed or published appears to the [3][State] Government to contain any advertisement or matter [4]* soliciting the use of, or offering any intoxicant or hemp, the [3][State] Government may, by notification in the *Official Gazette*, declare every copy of such newspaper, news-sheet, book, leaflet, booklet or other publication whether printed or published in the [5][State] or outside to be forfeited to [6][the State Government], and thereupon any Police Officer may seize the same wherever found in the [5][State]. Any Magistrate may by warrant authorize any Police Officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such newspaper, news-sheet, book, leaflet, booklet, or other publication may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898.

V of 1898.

(*2*) The declaration of the [3][State] Government under this section shall be final and shall not be questioned in any Civil or Criminal Court.

Presumption as to commission of offences in certain cases.

103. (*1*) In prosecutions under any of the provisions of this Act, it shall be presumed without further evidence, until the contrary is proved, that the accused person has committed an offence under this Act in respect of any intoxicant, hemp, mhowra flowers or molasses or any still, untensil, implement or apparatus, whatsoever for the manufacture of any intoxicant as are ordinarily used in the manufacture of such intoxicant [8][or any materials which have undergone any process towards the manufacture of any intoxicant or from which an intoxicant has been manufactured,] for the possession of which he is unable to account satisfactorily.

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[1] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.
[2] This word was substituted for the word "Magistrate" by Bom. 21 of 1954, s. 3, Second Schedule.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] The word "commending" was deleted by Bom. 26 of 1952, s. 39.
[5] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[6] These words were substituted for the words "His Majesty," *ibid.*
[7] This word was substituted for the word "commending" by Bom. 26 of 1952, s. 39.
[8] These words were inserted by Bom. 20 of 1955, s. 8.

(2) In prosecutions under section 67 [1][or 67-1A] it shall be presumed without further evidence until the contrary is proved that the accused person has committed an offence under that section in respect of any denatured spirit [2][or denatured spirituous preparation] which has been or attempted to be altered in contravention of the provisions of section 21 [3][or 21A, as the case may be].

Report of certain registered medical officers as evidence.

[4][**103A.** Any document purporting to be a report under the hand of any registered medical officer in any hospital or dispensary maintained by the State Government or a local authority or any other registered medical officer authorised by the State Government in this behalf, in respect of any person examined by him, or upon any matter or thing duly submitted to him for examination or analysis and report, for the purposes of any prosecution under this Act, may be used as evidence in such prosecution:

Provided that the Court shall, at the request of the accused, summon the medical officer who made the report for the purpose of being cross-examined.]

Compounding of offences.

104. (1) The [5][State] Government may sanction the acceptance from any person whose licence, permit, pass or authorization is liable to be cancelled or suspended under the provisions of this Act or who is reasonably suspected of having committed an offence under section [6][69, 70, 77, 82 or] 108, of a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be; and in all cases in which any property other than the intoxicant, hemp, mhowra flowers or molasses has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by the [5][State] Government or such officer as the [5][State] Government may authorize in this behalf:

Provided that where a person who is reasonably suspected of having committed an offence under section [6][69, 70 or] 108 is not the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or a person acting with his express or implied permission on his behalf, the sum of money which may be accepted from such person by way of composition shall not exceed five hundred rupees.

(2) On the payment by such person of such sum of money, or such value or both as the case may be, such person, if in custody, shall be set at liberty and the property seized may be released and if any proceedings shall have been instituted against such person in any Criminal Court, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

Bombay Probation of Offenders Act, 1938, and section 562 of Code of Criminal Procedure, 1898, not to apply to persons convicted of offence under this Act.

[7][**104A.** Nothing in the Bombay Probation of Offenders Act, 1938, or section 562 of the Code of Criminal Procedure, 1898, shall apply to any person convicted of any offence under this Act.]

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[1] The word, figures and letter " or 67-1A " were inserted by Bom. 36 of 1954, s. 13(*i*).
[2] These words were inserted *ibid.*, s. 13(*ii*).
[3] These words, figures and letter were inserted *ibid.*, s. 13(*iii*).
[4] Section 103A was inserted by Bom. 64 of 1954, s. 2.
[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[6] These figures and word were inserted by Bom. 26 of 1952, s. 40 (1) & (2)
[7] Section 104A was inserted by Bom. 67 of 1953, s. 4.